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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,857	03/29/2005	Haruro Tamaki	04601/DH	4324
1933 7590 07/10/2008 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER				
PEREZ, JAMES M				
ART UNIT		PAPER NUMBER		
2611				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/509,857

Applicant(s)

TAMAKI, HARURO

Examiner

JAMES M. PEREZ

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 9-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
see below.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Shuwang Liu/
Supervisory Patent Examiner, Art Unit 2611

/James M Perez/
Examiner, Art Unit 2611
7/7/2008

Response to Arguments

1. Applicant's arguments filed 6/24/2008 have been fully considered but they are not persuasive.

Sato (US 2001/0036221), Suzuki (USPN 7,257,148), Suzuki 2 (US 2002/0167991), and Mitsubishi (JP 6-90222).

With respect to Lack of Claimed Features in the Cited Prior Art

2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3. Furthermore, the examiner notes that each chip of a spread spectrum signal is implicitly capable of causing a toggle point in the carrier since spread spectrum communication uses phase-modulation to phase shift (toggle), thus spread spectrum signals inherently have toggle points (Evidence found in: Instant Application: page 9, lines 12-13 and Manning, USPN 7,190,741: col. 1, lines 25-43 and Langlais, USPN 6,091,932: col. 2, line 58 through col. 3, line 10: thus PN codes implicitly contain toggle points), thus the search loop of Sato is a toggle detection unit since the location/position of the spread spectrum signal and chip(s) are determined in time (Sato: paragraphs 58 and 65: note a Pseudo Random Noise (PN) code inherently have little to no correlation with a time shifted version of itself and other PN codes). Further explanation of Sato with respect to the claimed limitations is found in the Final Office Action mailed on 3/24/2008.

4. Note that limitation that the pre-held signal has a length corresponding to 2 chip-time of a spread code or has a shorter length than 2 chip-times of the spread code has multiple interpretations.

Firstly, using the interpretation of a waveform as the pre-held signal; Suzuki teaches using phase shift versions of a single impulse waveform (pre-held signal) to synchronize the received spread spectrum signal wherein each impulse waveform is obviously less than two chip-times (Evidence found in: figs. 6C-6E: col. 2, lines 8-24 and col. 2, lines 35-54).

Secondly, using the interpretation of an impulse train (at least one impulse waveform) as the pre-held signal; Suzuki teaches an impulse train (at least one impulse waveform) to synchronize the received spread spectrum (figs. 6C-6E: col. 2, lines 8-24 and col. 2, lines 35-54), and thus in the case wherein one or two impulse waveform(s) is/are used to represent the data, the pre-held impulse train of Suzuki would clearly be less than or equal to two chip-times (Evidence of using one or two impulse waveforms to represent data is found in: Richards et al., US 2002/0075972: paragraphs 114 and 115).

With respect to Lack of Obviousness in Combining Prior Art

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. Suzuki teaches that ultra wide band (UWB) transmission systems has a characteristic of low signal power density, and thus an UWB transmission system does not readily undergo or cause interference as applied to high speed transmission systems (col. 1, lines 45-53). One ordinary skill in the art at the time of the invention would clearly realize that a system that does not readily undergo interference has increased tolerance to interference and that less interference in the received signal would obviously improve synchronization timing in high speed signals.

With respect to Dependent Claims

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

8. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

9. Furthermore, the examiner notes that each chip of a spread spectrum signal is implicitly capable of causing a toggle point in the carrier since spread spectrum communication uses phase-modulation to phase shift (toggle), thus spread spectrum signals inherently have toggle points (Evidence found in: Instant Application: page 9, lines 12-13 and Manning, USPN 7,190,741: col. 1, lines 25-43 and Langlais, USPN 6,091,932: col. 2, line 58 through col. 3, line 10: thus PN codes implicitly contain toggle points), thus Mitsubishi contains a toggle point unit since the location/position of the spread spectrum signal and chip(s) are determined in time (paragraphs 32 and 33: note a Pseudo Random Noise (PN) code inherently have little to no correlation with a time shifted version of itself and other PN codes). Wherein the squaring operation includes an absolute value when the input values are real valued. Further explanation of Mitsubishi with respect to the claimed limitations is found in the Final Office Action mailed on 3/24/2008.